## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RACHEL IVY,

Plaintiff,

vs.

OUTBACK STEAKHOUSE, INC., a Delaware corporation; OUTBACK STEAKHOUSE OF FLORIDA, INC., a Florida corporation; E-D JOINT VENTURE, a Washington joint venture; EVERGREEN STATE RESTAURANT CORPORATION, a Washington corporation; DREWRY ENTERPRISES, INC., a Washington corporation; EVERGREEN STATE LIMITED PARTNERSHIP NO. 5, a Washington limited partnership, and JOSH COLEY, an individual,

Defendants.

NO. CV 05-0654 C

STIPULATION AND PROTECTIVE ORDER FOR CONFIDENTIAL INFORMATION AND DOCUMENTS

## **STIPULATION**

To protect the confidentiality of information contained in documents produced and other information disclosed through discovery in this litigation, pursuant to CR 29 the parties stipulate as follows:

 The term "discovery materials" shall mean documents produced under requests for STIPULATION AND PROTECTIVE ORDER FOR CONFIDENTIAL INFORMATION AND DOCUMENTS - 1 production, responses to interrogatories, deposition testimony, and documents produced in response to a subpoena or agreed-upon exchange or release.

- 2. Any discovery materials that a party asserts contain confidential information, proprietary information, or information the disclosure of which will subject a party or other person to invasion of privacy interests or undue embarrassment, may be designed as "confidential" by the party supplying or authorizing the collection of the discovery materials. Produced copies of "confidential" documents shall be so stamped or otherwise marked and shall be produced in unredacted form. "Confidential" materials shall include but not be limited to proprietary business information, confidential medical information, and personal information concerning non-party employees. If there is an unresolved dispute over whether certain information is properly designated as "confidential," the dispute shall be resolved under applicable federal or local civil rules to compel or protect production of the information.
- 3. Absent a dispute over the propriety of the designation as "confidential," any discovery materials so designated shall be held confidential by the parties and their attorneys, including those persons assisting counsel in preparation of this litigation, and shall not be disclosed to any other person nor made use of for any other purpose except as necessary in the prosecution or defense of this lawsuit. This may include disclosure to expert witnesses or consultants retained to assist in preparation of this lawsuit or witnesses who will give testimony with regard to the confidential material. Confidential information under this Order may be disclosed to non-party witnesses and consultants only on a need-to-know basis and only then after they have been shown this Stipulation and Order and they

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have agreed in writing to be bound by its terms. A suitable confidentiality agreement is attached hereto.

- 4. Upon conclusion of the litigation, all copies or reproductions of discovery materials subject to this Order shall, upon the producing party's request, be returned to the party providing such discovery materials or destroyed, *provided*, that plaintiff shall not be required to return copies of personnel files concerning the plaintiff, or "confidential" documents contained therein. If, at the conclusion of the litigation, any party has a reasonable basis for retaining confidential documents or information, that party shall attempt to reach agreement with the producing party concerning the terms under which such document or information will be retained. If the parties are unable to reach agreement, the party seeking to retain the confidential information or document shall move the Court for an Order modifying this Order.
- 5. The provisions of the Order, insofar as they restrict the communication and use of certain discovery materials and the information contained therein, shall continue to be binding after the conclusion of this action, including appeals, if any. Parties agree not to use any such information and materials in subsequent litigation; except as may be ordered by the Court pursuant to a motion brought by the party seeking to use such information or materials.
- 6. This Order does not limit any right of any party to resist discovery or compel discovery with respect to any documents or other information under applicable court rules and law. It does not preclude any party from seeking or obtaining from the Court, on an appropriate showing, additional protections or an order compelling discovery pursuant to applicable court rules and law, including, without limitation, an order that documents or information should or

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should not be produced or discovered, or should not be kept confidential. Each party reserves the right to seek modification of this Protective Order.

7. This Stipulation shall not in	n any way constitute a waiver by any party of any objection
as to the admissibility as evidence at t	rial of any document or information covered herein or of any
right to contest any assertion or claim	that the documents or other information constitutes trade
secrets or privileged or confidential m	naterials or information; provided, however, that the
documents or information shall be tre	ated as privileged and confidential unless and until otherwise
determined by the Court or stipulated	by the parties.
8. The parties agree to be box	und and abide by the terms of this Stipulation in relation to
any documents or materials that are e	xchanged or produced prior to entry of the Protective
Order. Until the Protective Order is	entered, said materials shall not be provided to any non-
party.	
PETER MOOTE LAW FIRM	CABLE LANGENBACH KINERK & BAUER, LLP
/s/ Peter Moote	/s/ Bryan P. Coluccio
Peter Moote, WSBA No. 6098	Bryan P. Coluccio, WSBA No. 12609
Counsel for Plaintiff	Local Counsel for Defendants
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1	<u>ORDER</u>
2	Based on the foregoing stipulation, it is so ordered.
3	based on the foregoing supulation, it is so ordered.
4	DATED this 6th day of March, 2006.
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6	John C Coylina
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8	UNITED STATES DISTRICT JUDGE
	Presented by:
10	PETER MOOTE LAW FIRM
11	
12	<u>/s/ Peter Moote</u> Peter Moote, WSBA No. 6098
13	Counsel for Plaintiff
	Post Office Box 625
14	Freeland, WA 98249 206-447-1615 phone
15	360-331-7755 fax emplatty@whidbey.com
16	Ammoved as to form. Notice of Duccontation Weived
17	Approved as to form; Notice of Presentation Waived:
18	CABLE LANGENBACH KINERK & BAUER, LLP
19	
20	/s/ Bryan P. Coluccio Bryan P. Coluccio, WSBA No. 12609
	Local Counsel for Defendants
21	CABLE, LANGENBACH, KINERK & BAUER, LLP Suite 3500, 1000 Second Avenue Building
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3	CONCIDENTIALITY ACDEEMENT
4	CONFIDENTIALITY AGREEMENT
5	I, BRYAN COLUCCIO, have read the provisions of the foregoing protective order in the
6	case of Rachel Ivy v. Outback Steakhouse, Inc., et al., No. CV 05-0654-C. I realize that I am
7	bound by the terms of the Protective Order and agree to abide by them.
8	DATED this 27 <sup>th</sup> day of February, 2006.
10	/s/ Bryan P. Coluccio
11	Bryan P. Coluccio, WSBA No. 12609
12	Local Counsel for Defendants CABLE, LANGENBACH, KINERK & BAUER, LLP
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